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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,443	07/15/2005	Fabrice Bonacci	Q89061	2712
23373 7590 04/03/2009 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
EXAMINER				
BLATT, ERIC D				
ART UNIT		PAPER NUMBER		
3734				
MAIL DATE		DELIVERY MODE		
04/03/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/542,443

Applicant(s)

BONACCI, FABRICE

Examiner

Eric Blatt

Art Unit

3734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 rejected under 35 U.S.C. 102(b) as being anticipated by Allen (US 379,553).

Allen discloses a guide insertion device (Figure 3) comprising a body A delimiting a duct that is capable of guiding a guide. The duct is open at its two ends. The body A comprises a slim cannula extending along the axis of the duct and capable of being engaged through a check valve. The body A has a slot D extending longitudinally along the length of the duct from one end of the duct to the other and opening into the duct along its whole length. The diameter of the duct increases progressively from the first end to the second end, and the outer surface of the cannula is generally frustoconical and flares progressively from the first end of the duct. The body A is formed of a single monobloc piece. The cannula extends over a length greater than 50% of the total length of the duct. The flared portion at the end of the device is considered to comprise a divergent frustoconical wall that axially extends the cannula.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-14 rejected under 35 U.S.C. 103(a) as being unpatentable over Allen (US 379,553) in view of Windheuser et al. (US 6,606,515).

Allen teaches a tapered device having a slot which is intended to be used as a rectal speculum, and therefore does not disclose the claimed sizes and ratios suited for funneling a guide wire into a catheter lumen. Windheuser teaches that such tapered and slotted structures may alternatively be used for inserting a guide wire into a guide wire lumen of a catheter. (See Figures 16-18C) One skilled in the art would thus be motivated to resize the Allen device to optimize it for the purposes taught by Windheuser in order provide a device that can aid in inserting a guide into a guide wire lumen.

Regarding claim 6, the frustoconical wall internally delimits a centering cone. It would have been obvious to one of ordinary skill in the art at the time of the invention to have the maximal diameter of the centering cone lie between 1.5 and five times its minimal diameter, or between 3 and 8 times the minimal diameter of the duct, since it has been held that it is within the knowledge of one of ordinary skill in the art to determine an optimal range for the functionality of a device.

Regarding claims 7-13, it would have been obvious to one of ordinary skill in the art to modify the apparatus of Allen by providing the elements such that they have the dimensions as claimed since it has been held that it is within the knowledge of one of ordinary skill in the art to determine an optimal range for the functionality of a device.

Regarding claim 14, Allen does not disclose that there are internal bevels running along the inner surface of the slot. Windheuser teaches providing internal bevels along the inner surface of a slot 710, 716 in order to funnel a guide wire into through the slot 710, 716 and into the desired catheter lumen. (Figures 18B and 18C) It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Allen by providing beveled surfaces along the inner surface of the slot in order to achieve these benefits as taught by Windheuser.

Response to Arguments

Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Blatt whose telephone number is (571)272-9735. The examiner can normally be reached on Monday-Friday, 9:00 AM-6:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on 571-272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eric Blatt/
Examiner, Art Unit 3734

/Todd E Manahan/
Supervisory Patent Examiner, Art Unit 3734